

Lorenzo McGriff, 1740575

Otisville Correctional Facility

P.O. Box 8

Otisville, New York

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

AUG 05 2021 ★

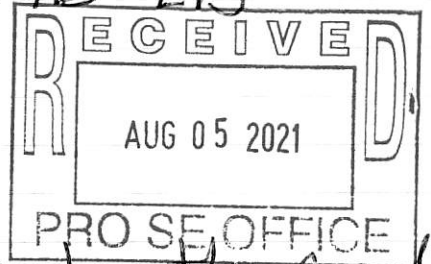
Case Name: McGriff v. Beardon

BROOKLYN OFFICE

Case Number: 1:21-cv-0073-AMD-LB

Judge: Ann M. Donnelly

Date: August 2, 2021




Your Honor,

Please except my Apologizes to the Court  
For my error actually. The court had a  
Full record of my reply dated July 17, 2021,  
there was an extra copy of page (1).

Here enclosed is a second copy of petit-  
itioner's request For appointment of coun-  
sel. An the Traverse dated July 17, 20-  
21, in reply to respondent's reply to HA-  
beas corpus petition case no. 1:21-cv-0073  
AMD-LB pending before this court.

Respectfully, etc.

  
Lorenzo McGriff

cc: file  
me

1740545  
Otisville Correctional Facility  
PO Box 8  
Otisville NY 10963-0008

Case Name: McGriff v. Beardon

Case Number: 1:21-cv-00703-AMD-LB

Judge Ann M. Donnelly

Date 7/7/2021

Your Honor,

I am in receipt of your order dated 7/1/2021, in which you granted an extension of time for me (petitioner), to reply to the Respondent's, reply dated April 13, 2021, in the above-caption matter.

Here petitioner is requesting the appointment of Counsel in the above-caption matter, due to the complexity of the legal and factual issues of my case.

I make my request out of the abundance of the "Interests of Justice", 18 USC § 3006A (a)(2)(B) 2006; Rules Governing § 2254 Cases Rules 6(a), 8(c) 28 USC Fol. § 2254 (2006), see also Reese v. Fulcomer, 946 F.2d 247, 263-64 (3rd Cir. 1991) (describing the factors the court should consider before appointment of counsel to an indigent habeas petitioner as (1) whether the habeas claim is frivolous;



(2) Whether Appointment of Counsel will benefit the petitioner and court; (3) the complexity of the legal or factual issues in the case; and (4) the ability of petitioner to investigate facts and present claims). See, e.g., *Battle v. Armontrout*, 902 F.2d 701, 702 (8th Cir. 1990) (requiring appointment of counsel because the factual and legal issues were sufficient 1) complex and numerous; also finding that petitioner's ability to investigate the issues was significantly impaired by his imprisonment); *United States ex rel. Jones v. Franzen*, 676 F.2d 261, 267 (7th Cir. 1982) (appointing counsel for complex legal issues when allegations included withholding evidence, admission of co-defendant's statement and improper jury sequestration). *Lemeshko v. Wrona*, 325 F. Supp. 2d 778 (E.D. Mich. 2004) (finding counsel should be appointed in a habeas action where prisoner "has made a colorable claim, but lacks the means to adequately investigate, prepare, or present the claim").

The Rules Governing § 2254 Cases Rule 8(c), 28 USC Fed. § 2254 (2006) require a court to appoint a lawyer if the court decides to hold a hearing to investigate the facts of a petitioner's case. See, *United States v. Duarte-Higareda*, 68 F.3d 369, 370 (9th Cir. 1995) (Finding court appointment of counsel mandatory when evidentiary hearing are required for habeas petition under 28 USC § 2254).

### Conclusion

For all the aforementioned reasons, Petitioner request for appointment of counsel in protection of the Habeas corpus Petition Before this Court should be granted.

Respectfully Submitted  
Lorenzo McGuff



## Certificate of Service

I hereby certify that on July 7<sup>th</sup>, 2021, the foregoing document was Filed with the clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Eastern District's Local Rules, and/or the Eastern District was served upon the following party:

ERIC GONZALEZ  
District Attorney  
Kings County  
350 Jay Street  
Brooklyn, NY 11201